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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,272	09/26/2003	Uwe D. Schaible	PAT 52154-2	4940
26123	7590	06/09/2005	EXAMINER	
BORDEN LADNER GERVAIS LLP WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA			SOUW, BERNARD E	
			ART UNIT	PAPER NUMBER
			2881	

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/670,272</p>	<p><b>Applicant(s)</b> SCHAIBLE ET AL.</p>	
	<p><b>Examiner</b> Bernard E. Souw</p>	<p><b>Art Unit</b> 2881</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 25 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: All claims are held prima facie obvious over the cited prior arts for reasons of record.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

### **ADVISORY ACTION**

1. The period for reply continues to run 3 MONTHS from the date of the final rejection. Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a) accompanied by the appropriate fee. The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. A reply within the meaning of 37 CFR 1.113 or a request for a continued examination (RCE) in compliance with 37 CFR 1.114 must be timely filed to avoid abandonment of this application.

### ***Request for Reconsideration***

2. A Request for Reconsideration filed 04/25/2005 under 37 CFR 1.116 in response to the Final Office Action dated 02/23/2005, has been received.

### ***Amendment***

3. The amendment/argument after final rejection filed on April 25, 2005, along with the Request for Reconsideration under 37 CFR 1.116, in reply to the final rejection has been entered. This Office Action is made with all the Applicant's amendment/argument being fully considered.

4. Applicant's Amendment/Argument filed April 25, 2005 has been considered, but is not deemed to place the application in condition for allowance. Upon the filing of an appeal and entry of the amendment/argument, the status of the claims would be as follows:

Rejected claim(s): 1-27

***Response to Applicant's Arguments***

5. Applicant's arguments filed 04/25/2005 along with the Request for Reconsideration under 37 CFR 1.116 have been fully considered, but they are not persuasive.

Applicant's argument centered on only one issue, i.e., that Baarman's flow sensor is not disposed within the fluid treatment zone. This argument is unpersuasive, since Baarman et al. (USPAT 6,436,299) clearly recite in Col.18/ll.46-50 that the flow sensor 440 including the circuit 104 shown in Fig.9 is only an example. This inherently means that Baarman's flow sensor 440 may be substituted by any other flow sensor conventional in the art.

To correctly understand, what is meant by Baarman et al., one of ordinary skill in the art may take the statement of Cohen (USPAT 6,317,051), reciting in Col.2/ll.57-67 that the flow sensors 14 and 16 shown in Fig.1 may be replaced by any other flow sensor known in the art. As further recited in Col.3/ll.1-5, these substitute flow sensors include "differential pressure transducer", "rotating paddle wheel", "rotometer" and

"mass flow meter", all known in the art as sensors to be disposed within the fluid to be measured, as recited in Applicant's claim(s).

Applicant's further arguments against other claim rejections refer back to Applicant's previous argument against Baarman's flow sensor, and hence, are similarly unpersuasive.

### **CONCLUSION**

6. For the reasons stated above, claims 1-27 are held *prima facie* obvious over the cited prior arts for reasons of record.

### **Communications**

45. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard E Souw whose telephone number is 571 272 2482. The examiner can normally be reached on Monday thru Friday, 9:00 am to 5:00 pm..

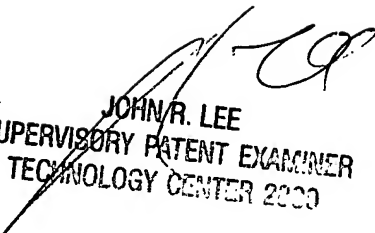
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on 571 272 2477. The central fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communications as well as for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

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May 16, 2005

  
JOHN R. LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2000